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SASKATCHEWAN

REPORT
OF THE
OMBUDSMAN

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FOURTEENTH ANNUAL REPORT

"The Ombudsman's Powers, far from being formidable, are in reality quite limited. The Ombudsman may only investigate, recommend and publicize. His recommendations are binding on no one; he has no power to overrule the decisions of government officials. Nor can he bring a punitive action for official malfeasance. Clearly, he cannot impede the functioning of those with whom he deals.

In my view, the phrase "a matter of administration" encompasses everything done by governmental authorities in the implementation of government policy. I would exclude only the activities of the legislature and the courts from the Ombudsman's scrutiny."

B.C. Dev. Corp. v. Friedmann (SC.C.) [1985] 1 W.W.R. 193, per Dickson, C. J., at p. 216.

REGINA, SASKATCHEWAN
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1987

SASKATCHEWAN OMBUDSMAN

2310 Scarth Street Regina, Canada S4P 3V7 (306) 565-6211

The Honourable The Speaker
of the Legislature
Province of Saskatchewan
Legislative Buildings
REGINA, Saskatchewan

Dear Mr. Speaker:

It is my duty and privilege to submit to you and to the Legislature, the fourteenth Annual Report of the Saskatchewan Ombudsman, submitted in accordance with the provisions of subsection (1) of section 30 of *The Ombudsman Act*.

Yours sincerely

A/Ombudsman

PART I

HIGHLIGHTS

PART I

HIGHLIGHTS

1986 was the last full year in office for Ombudsman David Tickell and while this report does not carry his personal message, it does bear his stamp in that the efforts of the office took their direction from him through the year, and recommendations for the resolution of complaints reflected his highly developed sense of administrative fairness in scrutinizing the government's dealings with the people of Saskatchewan.

Mr. Tickell came into the office in April 1977 and over a decade of growth (though more in the volume of complaints than in staff to cope with them) promoted the office as the servant of the people and, by outreach activities — most notably the employment of temporary offices (one-day visits to various communities) consistently worked to increase public awareness of the Ombudsman, particularly in rural and northern Saskatchewan. If complaint volume is a reflection of that awareness, then consider that our intake went from 500 complaints against government in 1977 to 1,326 in 1986 (having peaked at 1,610 in 1985).

Certainly, much of this rise over the years relates directly to increased public visibility for the office of the Ombudsman, but the complaints and concerns have always been there — the office did not create them.

While governments comprise human beings, mistakes will be made and citizens will feel (sometimes with justification) that they have been treated unfairly, or arbitrarily, or rudely, or have been ignored or are victims of discrimination. For these citizens the Ombudsman represents not only a possible remedy but sometimes just the assurance that they have not been treated unfairly. And this is the message David Tickell has brought to the people of this province during his tenure — that the Ombudsman is an impartial reviewer who tells it as he sees it, whether in favour of the complainant or of the government. He has not been the darling of government, but he has maintained the integrity of the office and leaves it high in the public's esteem — a reasonable goal for any Ombudsman.

By and large an Ombudsman's office is a reactive organism, responding to complaints brought by citizens, but it can be proactive, in the priority it gives to certain kinds of complaints, although any such special focus really reflects the nature of the complaints being received. The Ombudsman basically investigates complaints from individuals about their personal situation, but when a number of similar complaints draw attention to a particular department or agency or to a specific area, then it is certainly a function of the Ombudsman to concentrate on this and attempt to identify the root cause of the recurring problem. Past years have seen Mr. Tickell focus on such areas as the regulation and control of day care centres and on Saskatchewan Assistance Plan concerns, on workers' compensation and on the treatment of inmates. Because of a build-up of case experience, 1986 has seen an emphasis on complaints related to child welfare — re abuse investigations, apprehensions, foster home placements, resources for handling distressed children, etc., etc. But while this is an area that gets (and merits) special attention, it really represents but a fraction of the work undertaken by the office during any one year.

1986 produced virtually the same volume of complaints against the Workers' Compensation Board and Social Services (all areas) with a slight increase in corrections complaints and complaints against the Saskatchewan Housing Corporation and Highways and Transportation. That is not to say, of course, that each additional complaint received was substantiated and I think it should be emphasized that it is not the job of the Ombudsman to find complaints substantiated unless the facts, in his view, declare them substantiated. An investigation which finds a complaint not substantiated is every bit as valid, and most certainly entails no less work on the part of the investigators. It means that although citizens may feel aggrieved about some act or decision of the government which has affected them, the facts do not establish that they have been dealt with unfairly by the government, from the perspective of an impartial observer who has the authority to examine both sides of the issue. But when the Ombudsman does feel the complaint is made out (and this is a decision, left to his discretion) then he is obligated to inform the government of his views and to seek a resolution of the complaint by way of recommendation. The Legislature has imposed this obligation on the Ombudsman and at the same time has conferred on him the authority to make such findings and recommendations as he sees fit.

The reaction of government to the Ombudsman's findings sometimes suggests he and they are diametrically opposed in their functions, but in reality both have the same end; fair treatment for the people of the province. The existence of an Ombudsman's office denotes government's understanding that the bureaucratic machine can break down, that public servants are only human and that service to the people is their *raison d'etre.* It sometimes appears that this broader vision is obscured in the contention that occasionally surrounds sensitive issues.

As far as the numbers are concerned, complaints against S.G.I. and Sask-Tel are down considerably, but the rest is much as before and as we have come to expect; high volumes where livelihoods or just living are issues, e.g. — social assistance programs and workers' compensation and a general scattering of complaints among other departments and agencies — some higher than others in relation to their degree of contact with the public.

OMBUDSMAN REPORTS AND RECOMMENDATIONS

Although a considerable number of complaints are resolved without the need for a formal approach (1,058 from 1982 to 1986 inclusive), written recommendations do become necessary in the more complex or contentious cases and 71 such recommendations were made to the government during 1986. Of these, 67 were still outstanding at year end, but this is at least partly due to the bulk of the recommendations being made in the latter half of the year.

Recommendations/year/result — December 31, 1986

	Total	Accepted	Rejected	With-drawn	No Juris.	Out-Standing
1982	74	42	1	29	—	2
1983	91	62	7	11	—	11
1984	93	65	5	9	1	13
1985	91	46	10	17	—	18
1986	71	4	—	—	—	67
Totals	420	219	23	66	1	111

Since 1982, of 420 cases in which recommendations were forwarded to government, 309 have been closed. Of these, one was deemed to be out of jurisdiction, 66 were withdrawn (not proceeded with) because of subsequent information — from government or our own investigators and/or the complainants — and 242 were

decided by government's acceptance or rejection of the Ombudsman's recommendations. Considering these, the recommendation was accepted in 219 cases (90.5%) and rejected in 23 cases (9.5%).

Although the Ombudsman and the government do not always see eye to eye, it is evident that where the Ombudsman finds a case substantiated and proposes a recommendation on the complainant's behalf, the government is conceding the point in a significant percentage of cases and, more importantly, is generally prepared to do something about it.

COMMUNITY OUTREACH

When Mr. Tickell was appointed in 1977, he quickly gave notice of his intention to bring this office to the people of the province with a series of community visits and temporary offices. This was kept up in subsequent years to the extent the budget allowed, but the number of visits was certainly reduced in recent years. Since 1986 was his last full year as Ombudsman he felt it was only proper to make a significant effort to leave the office with a reasonable profile across the province. To this end, visits by Mr. Tickell and/or various staff members were made through the year to the following communities: –

Wilkie, The Battlefords, Weyburn, Carlyle, Estevan, Esterhazy, Moosomin, Lloydminster, Melfort, Carrot River, Hudson Bay, Meadow Lake, Green Lake, Prince Albert, Stony Rapids, Uranium City, Creighton, Denare Beach, Pelican Narrows, Sandy Bay, Cumberland House, Pinehouse, Buffalo Narrows, LaLoche, Leader, Shaunavon and Yorkton.

These visits combined meetings with community leaders and special interest groups, and temporary offices where staff were available to receive complaints or discuss concerns about citizens' relations with government.

CANADIAN OMBUDSMAN CONFERENCE

The 1986 annual conference was held in Ottawa in June. The four Federal Ombudsmen were the hosts and Saskatchewan was represented by its Ombudsman and one other member of his staff. While the topics were many, the agenda was dominated by discussions regarding children's issues and the need for a Federal Ombudsman.

A working group composed of the Alberta, Ontario and Saskatchewan Ombudsmen had developed a Declaration of Principles on the Handling of Children's Complaints for consideration by the conference. The Declaration was approved by a majority but because of some reservations by two of the Provincial Ombudsmen it was decided to make some drafting changes and put the document on next year's agenda for formal approval. The Declaration obligates the Provincial Ombudsmen to give priority to children's complaints and issues and to provide children with more assistance than would ordinarily be provided on other kinds of issues.

For several years, resolutions have been passed at National Conferences urging the Federal Government to establish a general Ombudsman for persons having problems with the federal bureaucracy. In 1986, Prime Minister Mulroney had replied in the negative and to better understand the federal position, some conference time was devoted to discussions with senior members of the Department of Justice and the Canadian Law Reform Commission.

At the end of the Conference, a resolution was again unanimously passed repeating a call by the Provincial Ombudsmen for a Federal Ombudsman to assist the very many people who approach the provincial offices with federal problems.

The next national meeting will be held in Edmonton in September of 1987.

LEGAL DEVELOPMENTS

In December 1986, a significant case affecting all Ombudsmen was heard and determined by the Supreme Court of Ontario. The case arose out of a long-standing dispute between the Ontario Labour Relations Board and the Ombudsman of Ontario concerning the Ombudsman's jurisdiction to investigate complaints with respect to the merits of decisions made by the Labour Relations Board in its adjudicative capacity. To resolve the dispute the Ombudsman applied to the Divisional Court for a declaratory order determining his jurisdiction. The Divisional Court held that the Ombudsman does have jurisdiction to investigate the merits of decisions reached by the Ontario Labour Relations Board. The Board susbsequently appealed that order.

After hearing arguments the senior court upheld the Divisional Court decision, concluding that a tribunal exercising quasi-judicial powers is not excluded from the jurisdiction of the Ombudsman and is subject to the Ombudsman's jurisdiction even if the sole focus of the investigation is the merits of the decision.

The case is significant in that it clearly states that Ombudsmen do have jurisdiction to investigate the merits of decisions, rather than merely the process followed in hearing cases, and is yet another example of where a superior court has placed the broadest possible construction on the legislation, as regards the Ombudsman's role. This re-emphasises the view that the Ombudsman, who is a fact-finder who makes recommendations based on his findings should be allowed to examine any administrative act, decision, recommendation or omission of any government agency within his jurisdiction. And, of course, the Supreme Court of Canada determined, in November 1984, that any act, etc., of government which is not legislative or judicial, is necessarily administrative.

BUDGET

	1983-84	1984-85	1985-86	1986-87
Salaries	$537,860	$552,860	$553,890	$533,030
Investigator and other travel expenses	16,860	18,100	15,410	13,510
Other contractual services	79,450	77,860	76,710	78,240
Material, supplies and equipment	6,870	7,320	7,780	8,080
	$641,140	$656,140	$653,790	$632,860

With restraint a hot topic these days I would ask the members to note that the Ombudsman's budget for fiscal 1986-87 was some $20,000 less than for 1985-86 and, indeed, less than for 1983-84. This arises from the loss of one person year from our establishment but, while smaller, perhaps an even more significant reduction was in the allocation for investigator travel and related expenses. At $13,510 this figure is LESS than was allocated to us in 1980, despite obvious and substantial increases in general costs for travel and hotel accommodation over the last several years.

This kind of seemingly innocuous budget reduction necessarily and seriously limits our operational capabilities and, at a time of increasing caseloads, the 1986-87 budget was not good news. And lest it be thought that the reduction in intake for 1986 eased the

situation (and it may have been a slight relief to the government) this was definitely offset by the loss of one staff and the operational budget reduction.

Since restraint is still a high government priority, a dramatic improvement in the budget is not anticipated. Any further decline, however, must obviously affect the level of service to the public, which has only been maintained to this point by the continuing willingness of staff to donate personal time to the work of the office — a not uncommon phenomenon among professionals in the human services field.

INVALUABLE ASSETS

Although the office of the Ombudsman is an investigative agency and the investigators carry substantial caseloads, with "no light at the end of the tunnel", their task is made bearable and, indeed, possible, by the work of our Intake Officers.

The two Intake Officers receive all incoming complaints and, with respect to complaints against the provincial government, handle some 60% of the files. They make preliminary inquiries to establish status of cases and are responsible for resolving many issues by mediation, without the need for initiating a formal investigation — a much more detailed and lengthy business. This permits the investigators to be used in a more effective way on cases which don't lend themselves to easy or amenable resolution — the tougher and more complex issues — which would otherwise wait much longer for review.

The Intake Officers handle high volumes of people in every stage of frustration, rage, grief and confusion which, eventually justified or not, is what the officer has to cope with at the time the complaint is made. These are high-stress positions which require dedication and endurance and the incumbents merit recognition for their hard work and for the contribution they made to the total product of the office.

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STAFF DEVELOPMENT

A staff seminar and team-building exercise started in 1985, was continued and resulted in a revision of procedures and some physical changes designed to improve morale and increase efficiency.

Staff development also included a one-day seminar on issues surrounding child abuse and, additionally, two investigators attended a two-day workshop in Toronto.

STAFF

1986 did register a reduction in the total number of complaints received but, because of a continuing backlog, there was no reduction in staff workloads. Also, the number of cases opened for investigation still exceeds the closing capacity of the investigators. There is therefore a continuing and unrelenting pressure on staff, which they bear with a certain grim good humour.

This past year saw a reduction of one Clerk-Typist in our Saskatoon office. This has placed some clerical/administrative work on the shoulders of the investigative staff. Not pleasant medicine, although the office does recognize and appreciate the realities of fiscal restraint. However, the members should again reflect on the

fact that the office of the Ombudsman is an agency of the Legislature and the remarks made by Mr. Tickell in last year's Annual Report about having the Ombudsman's budget reviewed by an all-party committee still hold good.

The staff complement shown below reflects our position at the time of going to press and takes into account the departure of four staff members. W. Kenneth Barker, who retired in January 1987, was with the office as Assistant to the Ombudsman (Regina) from 1973, and his experience and dedication will be sorely missed. Lana Stefan, a Clerk-Typist in Regina, left for maternity reasons and Lynn Bloski, also a Clerk-Typist, found other employment when her temporary status expired. In Saskatoon, Clerk-Typist Colleen Taylor departed in July 1986, when her position was cut following the 1986/87 budget.

In addition, George Inkster worked as an Investigator in Saskatoon through 1986, job-sharing with Glenda Cooney. Jules Gravel filled in for four months during maternity leave for Intake Officer Laura Cook and Betsy Laliberte and Craig McQuarrie were each with us for four months as Practicum Students.

REGINA STAFF

Gordon K. Mayer — Solicitor to the Ombudsman
Earl A. McKeen — Chief Investigator
Murray Knoll — Investigator
Robert Smerchinski — Investigator
Carol Spencer — Intake Officer
Joan Uhren — Executive Secretary
Mary Ann McKay — Clerk-Typist

SASKATOON STAFF

Gil R. Thomson — Assistant to the Ombudsman (Saskatoon)
Joni Sereda — Investigator
Glenda Cooney — Investigator (job-sharing)
Janice Gingell — Investigator (job-sharing)
Laura Cooke — Intake Officer
Joyce Strate — Clerk-Typist

PART II

CASE SUMMARIES

PART II

NORTHERN HOUSING PROBLEMS — AN UPDATE

In last year's Annual Report (pp 43-50) under the heading "A NOTABLE OMBUDSMAN FAILURE", Mr. Tickell commented on the case of five homeowners at Wollaston Lake whose homes were in serious disrepair, due primarily, if not exclusively, to them having been built on patently unsuitable land. He quoted from an internal memorandum, dated March 31, 1981, in which the then Housing Program Manager commented (and it bears repeating): —

> "In reference to your letter to Bill Leigh, March 25, 1981, the five units in question were constructed on unsuitable land. The repairs that were carried out by the Department, did not solve the problem that existed at that time or at the present time. I recommend that the Department approach C.M.H.C. and request approval to *move or reconstruct* the five units on suitable land. We will continue to have problems with these houses, if they are left at this present site, as the land used is musky."
>
> (emphasis mine)

In spite of this recognition of the root cause of the problem, no remedy was forthcoming and Mr. Tickell's recommendation to the minister-in-charge of the Saskatchewan Housing Corporation elicited only an offer to have a geo-technical engineer report on possible foundation design corrections at the same time blaming the homeowners for failing to maintain adequate heat in the crawlspace of their homes to ensure no soil freezing within the perimeter of the foundations.

Since our 1985 report, the engineering study was undertaken and although this said the proper heating of the crawlspaces may have alleviated, not eliminated, the problems, it did find that the source of the difficulty was as much due to construction defects as to poor siting. Certainly, the study confirms (for us) that the homeowners were basically the victims of poor work by a government agency and did nothing to alter the view that Mr. Tickell's earlier recommendation was justified.

Be that as it may, a further development has been the offer to write-off the mortgage balances on each of the five properties — a total of $52,571.50, a little over $10,000 for each owner.

This generous offer, to let the owners have clear title to their wrecked homes, was reluctantly accepted by all five and is the end of an episode that does not reflect great credit on the government side of this particular equation.

JUSTICE

File No. – 86-2000-30-83

There are occasions where considerable effort is made with officials of various departments to rectify matters during the course of an investigation. In June of 1986 our office encountered this situation while investigating a complaint from an inmate who had been denied use of the Family Visiting Unit for a visit with his common-law wife. Correctional policy dictates that inmates who request use of the unit must establish existence of a common-law relationship by proof of cohabitation during six calendar months immediately prior to the inmate's current incarceration. Our complainant had provided letters to support the existence of a common-law relationship (from parents and outside agencies) but the Centre refused to recognize the common-law status because the inmate could not provide documented proof that he supported his common-law financially, (e.g. – utility receipts, rent receipts or joint hospitalization cards). The inmate advised he had lived with his spouse in a subdivided house owned by his parents and rent was paid in cash. He had also received benefits from Canada Manpower while taking a training program for both himself and his spouse.

Review of his institutional file revealed numerous recordings listing his spouse as his common-law wife. In discussion with the Director of the Institution, it was agreed the inmate's case merited use of discretion as it was a fine line as to whether our complainant met the criteria to establish common-law status. The result was to overturn the original decision to deny the use of the unit and within a month of the inmate's contact with our office, he was permitted use of the Family Visiting Unit.

A bouquet to the Department of Justice for reconsideration of this complaint and their willingness to work with my staff to rectify the matter without need of the more lengthy formal recommendation process.

ADVANCED EDUCATION AND MANPOWER

File No. — 86-4000-10-07

A university student approached my office in March complaining of problems with his student loan. He stated that he had initially applied in the previous fall and had been approved for both the student loan and bursary. He had received both the loan and bursary portions in the fall, without any difficulty.

However, his January disbursement did not arrive and he began making inquiries. He was then advised that he was not taking sufficient classes to qualify for either a student loan or bursary in the spring semester. The student insisted that he had provided full information to the department the previous fall and that his application had been approved on that basis. Since his circumstances had not changed from what was stated in his original application, he could not understand why his loan and bursary were being refused for the spring semester.

Shortly after my office commenced this investigation, we were contacted by the Department of Advanced Education and Manpower, confirming that a misunderstanding had occurred. As a result, the department was prepared to issue the bursary portion to this student even though classes had now concluded. The student was no longer interested in the loan portion but was quite anxious to receive the bursary. Accordingly, the cheque was issued to the student for the bursary portion.

The department further advised that their literature concerning this problem would be amended in order to prevent any similar misunderstandings arising in future years.

On this basis, I concluded my file, since both the individual problem which was brought to my attention by one student had been resolved, as well as steps being taken to prevent any future recurrences.

DEPARTMENT OF HEALTH

File No. — 85-13000-50-02

Our complainants contacted this office in the fall of 1985 concerning the Department of Health's refusal to pay for certain dental expenses and for further required treatment. Having applied

for social assistance, they had received two sets of supplementary health cards indicating they had coverage for dental benefits. However, two sets of dates were noted on the cards as to when the dental benefits started.

Our complainants, requiring dental treatment, arranged for service and incurred expenses. Further treatment was also required. They later learned the expenses they had incurred to date may not be covered.

Upon writing the Department of Health and supplying copies of both sets of health cards, the department quickly responded, noting our clients had been sent two sets of cards in error. Despite the fact they were not eligible for benefits for the expenses claimed to date, the department was prepared to cover these expenses. By this time, our complainants were eligible for any further treatment that was required.

The matter was quickly rectified both to our complainants' and our own satisfaction.

WORKERS' COMPENSATION BOARD

File No. – 85-16030-10-74

A man injured in a fall at work was hospitalized and two weeks later, while still in hospital, died of cardiac arrest. The cause of death was given as atherosclerotic coronary heart disease and, while the Workers' Compensation Board had accepted the injuries as compensable, the death was not accepted as such, since it occurred 14 days after the accident.

The case was referred to a cardiac panel which found death was not related to the work injury, but the man's family sought to establish that the treatment of his injuries, plus the rehabilitative exercises he had to do, placed undue stress on his heart and this led to his death.

It was evident that the case rested on the medical view of the man's treatment in hospital. For the claim to succeed it had to be accepted that the treatment could have precipitated the cardiac arrest and, if there was doubt in the case that it be resolved in favour of the claimant. As it happened, a medical opinion was forthcoming which suggested this man did suffer significant stress from the treatment and that this could have led to his heart trouble and death. On

further reviewing the case, the Workers' Compensation Board decided to exercise its discretion and accept the death as being related to the compensable injury and I very much applaud this decision by the Board.

File No. — 85-16030-10-18

This complainant suffered an incisional hernia while at work and this was accepted as a compensable injury. He underwent surgery to repair the damage and was on compensation for some three months thereafter, until he advised he was going north on a job. However, he lasted less than a month at work because of continual pain in the area of the operation. His doctor thought the problem would eventually settle and the Workers' Compensation Board, which had reinstated benefits, terminated payments some two months later, holding him to be fit for light work.

Unfortunately, the man's pain persisted and he eventually had further surgery at which time it was discovered a major nerve was entrapped in scar tissue from the earlier operation. A medical opinion was obtained that this condition would produce severe pain even when just driving a vehicle and certainly at any job requiring bending or twisting of the body.

The worker sought to establish that he was completely disabled from working from the time his compensation was terminated by the Board (October of '83) until he had recovered from the second surgery which released the trapped nerve (November of '84) and this argument was made on his behalf. Given the findings at the second surgery and having the opinion of a pain specialist that the condition would be disabling, the Board accepted the man was likely unable to work during the period in question and total disability was paid retroactively.

File No. — 85-16030-10-124

Injured workers frequently approach my office after the Workers' Compensation Board has deemed them to be capable of earning a certain salary, notwithstanding that they are unemployed or are earning considerably less than the wage deemed by the Workers' Compensation Board. These are always difficult cases since the legislation does provide authorization for the Workers'

Compensation Board to estimate the injured worker's earning capacity, but that earning capacity is not always the same as the workers actual employment status.

Several factors may account for the differences, however, the Workers' Compensation Board's responsibility is limited to the affect of the work-related injury. Consequently, factors such as poor economic conditions or non-work related injuries can contribute to a loss of earning capacity which may not be accepted by the Workers' Compensation Board as their responsibility.

An injured worker approached my office with a series of medical problems, only some of which were related to work injuries. At that stage, he was already receiving a Canada Disability Pension and it was apparent that he was no longer capable of any employment. From his list of medical problems, it was also apparent that any of his problems were unrelated to the three separate work injuries he had experienced. In this situation, it was predictable that the deeming decision would be a difficult one due to the interaction of the many injuries.

The wage which the Workers' Compensation Board selected as this man's deemed earnings was based on the wage of a "truck dispatcher". The Workers' Compensation Board had presumably selected this wage category due to the fact that the worker had previously been employed as a trucker. His injuries had prevented him from returning to truck driving as an occupation.

In reviewing the claim files on this case, it was somewhat surprising to observe that after the worker was forced to discontinue truck driving, he had not taken employment as a truck dispatcher. Instead, he had obtained employment as an arcade attendant, where he had gradually progressed to the position of manager, with responsibilities for several arcades. Further, the Workers' Compensation Board had assisted the worker in becoming established in the arcade business by paying a wage loss, based upon his earnings in the arcade.

However, when the Workers' Compensation Board established the "long-term wage loss" for this worker, they did not use the actual earnings of the worker in the arcade, but rather estimated his earning capacity in the occupation of a truck dispatcher. The estimated earnings of the truck dispatcher were considerably higher, with the result being a relatively modest payment to this injured worker.

At the point when the complainant approached my office he was no longer employed and was totally disabled as a result of both work related and non-work related factors. His complaint to my office was that the wage loss he was receiving as a result of his injuries was not based upon his earnings when he had been employed at the arcade, but rather upon his "deemed level of earnings" as a truck dispatcher.

After thoroughly reviewing the claim file on these injuries, I too, was of the view that the deeming had been inappropriate in these circumstances. The Workers' Compensation Board had assisted the man in establishing himself in the arcade business and the man had applied himself vigorously to the new occupation. In so doing, he received a certain level of wages and it would only seem appropriate that any wage loss would then be based upon these earnings. In my view, the "deemed earnings" of a truck dispatcher would only have been relevant if the man had been assisted by the Workers' Compensation Board in becoming established as a truck dispatcher. Since this was not the case, it was my view that a recommendation could be made on behalf of this complainant.

My recommendation to the Workers' Compensation Board was that the "deeming" be reconsidered on a retroactive basis and that the long-term wage loss be established based upon the worker's actual earnings in the arcade as opposed to the deemed earnings of a truck dispatcher.

I am very pleased to report that the Workers' Compensation Board accepted my recommendation in a very prompt fashion. Retroactive entitlement was calculated at slightly over $22,000.00. Additionally, the injured worker would be receiving a long-term wage loss of approximately $680 monthly and this wage loss would be reviewed annually. This was in contrast to a previously established wage loss of just over $100 monthly.

As you can well imagine, this injured worker was most happy with this improvement. I was therefore able to conclude this file as a complaint which had been both substantiated and rectified by the Worker's Compensation Board.

PARKS AND RENEWABLE RESOURCES

File No. – 85-22000-10-12

In this case a farmer complained about the rejection of his claim for compenstion for alfalfa bales damaged by deer.

The farmer notified the department of his loss as soon as it was discovered and his claim was for 150 bales valued at $525. The claim was refused because he had not previously notified the department of any problem. He was advised in writing – "... Losses that occur before our department is notified of any problems, such as yours, do not qualify for compensation."

This is not strictly true, however, as the regulations, by denying assistance where insufficient surveillance leads to undue delay in notifying damage, imply that assistance **may** be forthcoming if there was adequate surveillance. The issue, then, was not whether the department was contacted by the farmer prior to his bales being damaged, but whether there was insufficient surveillance which caused undue delay in contacting a conservation officer.

Our information was that the farmer was out at his farm once a week to feed his horses and was taking bales from a stack close to his corral. Week-by-week he found there was hay left over from the feed he put out and there were no signs of deer feeding from this hay or from his primary stack.

The stack which was spoiled was located some 300 metres from his barns and, given the situation with the primary stack and bales, he had no reason to suspect the other stack was at risk. It was not until January 30, when he noticed all the week's hay had gone, that he became concerned about the distant stack and, of course found it had been severely depleted by deer.

It was not clear what precisely constitutes "insufficient surveillance" but the complainant was out at his farm once a week and it seemed unreasonable to expect more than this. He alerted the conservation officer as soon as he suspected the deer were active around his place and it was unfortunate the second stack had been damaged by this time.

The amount of surveillance required is nowhere specified and determining "insufficient surveillance" is a matter of judgment depending on the circumstances in particular cases. In this case

the farmer had no reason to suspect depredation while his primary stack and the bales he put out each week were not damaged by deer. I felt the benefit of the doubt should be extended to the complainant in the matter of surveillance and that his claim of $525 should be accepted.

Happily, the department accepted our view of the case and settled in favour of the complainant; a prompt and reasonable response to this man's plea for assistance.

SOCIAL SERVICES — (FAMILY INCOME PLAN)

File No. — 85-23000-10-03

This complaint came from a farmer who was declared ineligible for Family Income Plan benefits because his assets were assessed as having a gross market value over the limit of $150,000. He had three quarters of land and these were originally appraised on the basis of 40.8 x the municipal assessment. This gave a total valuation of $181,560 and he objected that the multiple of 40.8 was unrealistically high. On review, the multiples were reduced to 32.4 on his two cultivated quarters and to 40.0 on his pasture land, which brought the land valuation down to $148,700, but he had other assets of $9,750 which kept him over the $150,000 limit. The farmer still argued this was too high.

Our inquiry discovered that the multiple of 40.8 applied originally, was merely the figure established by the Department of Agriculture's Lands Branch for assessing a rental figure for the lease of crown lands, and it is just a "ball park" figure for the area. On contacting the administrator of the local Rural Municipality we were informed that a multiple of 30 would be as high as one could expect for cultivable land at present (1985/86), and this was confirmed through an adjacent municipality and the Saskatchewan Assessment Authority.

Taking this figure of 30 and applying it to the two quarters of cultivable land — keeping the pasture land at 40.0 — provided a total value of $139,000 which, with the other assets added, comes to $149,250 — just under the asset limit.

However, we pursued the inquiry further and found from a private professional appraiser that land in proximity to our complainant had sold in 1985 at multiples of 28.9 and 27.0, both on municipal

assessments above our farmer's land. [Note: the multiple is merely the sale price of land divided by the R.M. assessment]. It seemed evident, therefore, that even the reduced multiple of 32.4 was too high and, on the basis of the multiples derived from actual land sales, recommended his land be re-assessed in light of our information.

The Department of Social Services, while suggesting that the multiples used were generally based on recent sales information, did have this farmer's land appraised by a private professional appraiser and his valuation did place the asset value below the $150,000 limit, thus qualifying our complainant for Family Income Plan benefits. Needless to say, he was delighted with this result and he received benefits retroactive to the date of his application in December of 1984.

As regards the process of valuation, the deputy minister responded: —

> "Late in 1985 I had Income Security officials conduct a review of options for the valuation of farm land for Family Income Plan purposes. A number of methods were examined and a decision was reached that we would continue our current process for the most part.
>
> As you recall, in the first stage the department relies on multiples developed by the Department of Agriculture. If the applicant disagrees with this information, he has the right to provide an independent third party evaluation. If this does not resolve the situation, the department may request Agriculture to take a closer look based on any more recent information they may have. As a further step, the department has decided to utilize the services of a professional appraiser in selected cases where disagreements cannot be resolved by other means. At any point in the procedure the individual has the right to an appeal hearing."

And to this Mr. Tickell replied: —

> "As regards the process of assessment, I am somewhat dubious about the wisdom of still using such a vague basis as the Department of Agriculture multiples, which are acknowledged as imprecise, when you are dealing with something as delicate as entitlement to financial assistance, with a definite cut-off valuation figure. However, the appeal process is well defined, so long as one knows about it, and I imagine there would only be a limited number of borderline cases."

File No's. — S85-23000-40-37 and S85-23000-40-298

Our office regularly receives complaints from individuals who encounter delay in receiving benefits from the Department of Social Services. Our primary goal in respect to these complaints is to assist social assistance persons with the delays and only to investigate in a limited number of situations. Although both these cases occurred during the last round of rotating strikes by provincial employees, delays of similar magnitude had been identified in other cases before and after the strike, so it was evident the job action had only a modest effect on the delay encountered by these clients.

The first case involved a single parent who was also mute. She had relocated to Saskatoon and applied for assistance there on October 15, 1985. She first contacted my office on December 5, 1985 as she had not received her December benefits, and it took a considerable effort by my intake officer to ensure the client eventually received her benefits. Initially, contact was made with the department supervisor who assured my staff he would "sort" things out. On December 11, 1985, we were advised that the financial worker was away, however, the supervisor confirmed the benefits were processed but the department required a trustee form to be completed. My staff made arrangements for the trustee form to be completed and taken to the department office to release the benefits. The form was left at the office as "our messenger" was told the supervisor could not be seen. On December 13, 1985, my staff was told by the client's worker, the cheque was in the mail. However, four days later the client and trustee advised they had still not received benefits. Finally the trustee located the cheque which was still at the Social Services office and to avoid further complications, picked up the cheque to ensure the client's financial commitments were paid.

Although the situation had been resolved prior to us providing formal notification of investigation, a formal investigation revealed the following factors contributed to the delay in this case.

1) Initially, a recalculation of benefits had to be done as there was a clerical error in documenting the proper rent amount.

2) The client's rent had been paid directly to the landlord at her former residence under General Trust Account. This method of payment had not been suppressed, causing delay in issuing current benefits after the client relocated.

3) The department misinformed the client, trustee and our office about the exact whereabouts of the cheque.

The department had demonstrated that their complex system forced this client to depend on community resources to avoid possible eviction and economic hardship.

In the second case cited, a single employable person had contacted the Social Services office to apply for assistance on November 29, 1985. Due to staff shortages and the rotating strike, the backlog of work required he wait until December 11, 1985 to obtain an appointment. After his eligibility was assessed, he was advised he would receive benefits on December 27, 1985. On December 31, 1985, he still had not received benefits and was advised his cheque was with the auditing department and he should anticipate receipt of it on January 3, 1986. On January 6, 1986, the client finally contacted our office and our intake officer interceded on his behalf. The department agreed the cheque must be lost and issued a portion of the benefits the following day upon obtaining an affidavit from the client stating he had not received anything. Luckily the client's room-mate was supporting him in the interim in terms of his rent.

Formal investigation revealed that:

1) There was an average waiting time of three weeks for clients to obtain appointments during this time.

2) The audit functions were at least two weeks behind at relevant times.

3) No temporary dollars were available to reduce backlogs in terms of hiring additional staff.

All in all, it took 42 days from the time our client approached the department until he received his benefits.

In his 1985 Annual Report the Ombudsman made recommendations that social assistance programs be reviewed by an independent and qualified individual or group. These examples demonstrate a need for that review.

File No. — 86-23000-40-81

In this case it took the intervention of our office to rectify a rather simple accounting oversight as the department would not re-check their records because the client could not produce some "proof" of

his claims. The client, a social assistance recipient suffering from multiple sclerosis, had been receiving Home Care Services since August of 1983. He had been paying for these services himself and only learned in the fall of 1985 that the department had taken responsibility for paying Home Care directly since October of 1983. When he requested a refund for Home Care, he was advised there was no overpayment indicated on his account, as the direct payments from the department were several months behind. Until a surplus actually was shown, Home Care could not provide a refund.

Upon our intervention Home Care agreed to refund the amount overpaid by the client as Social Services agreed to bring the payments up-to-date as quickly as possible.

Although the matter had been rectified for the client, careful examination of departmental records revealed:

1) No one (neither the Department nor Home Care) advised the client that Social Services was paying for home care services directly.

2) Neither Social Services nor Home Care recognized the direct payments made by the client on their invoices. The Home Care records did show the balance was reduced but did not identify where the payments were made by the client.

3) The worker would not believe the client and the Department refused to check their files to determine if there was an underpayment until Home Care had re-checked their invoices. This created a delay which prompted the complainant to contact our office because no one seemed willing to give him assistance with respect to the refund. This rather simple issue was adequately rectified by the Department and Home Care. However, it took from March to July to overcome the "paper work" obstacles to obtain a simple rebate for this client — a glaring example of how the paper work jungle can lead to unfortunate delays and cause hardship for clients.

SASKATCHEWAN GOVERNMENT INSURANCE

File No. — 86-26000-10-27

Occasionally, our office is able to obtain remedies by simply clearly identifying the issue with the provincial agency involved. This case is one illustration. Our complainant had contacted our office

because he could not obtain a total refund on an overpayment for vehicle insurance. The overpayment had not been identified until our complainant decided to transfer plates — some seven years after initial registrations. Saskatchewan Government Insurance then discovered the vehicle had been improperly registered as a pick-up truck rather than as a courier truck. Although our complainant insisted he had identified the vehicle as a courier truck when he initially applied for plate insurance, Saskatchewan Government Insurance was only prepared to remit the overpayment for three years advising their policy prohibited refunds which date back earlier.

Upon giving notification to the Corporation, pointing out the complainant felt it was unreasonable to expect him to know the variance in insurance on two similar vehicles, Saskatchewan Government Insurance undertook a review of the matter. The Corporation identified in their reply to our office that initially the insurance rates for these vehicles was the same. However, over the course of seven years the rates did vary, unbeknown to our client, and to his detriment. Saskatchewan Government Insurance was therefore prepared to accept that this wasn't fair and, with their response, enclosed a cheque for the balance of the total overpayment.

The complaint was thus easily rectified, requiring only one letter, much to the client's satisfaction.

File No. — 84-26000-30-170

This case involved the theft of a Harley-Davidson motorcycle (always suspect it seems) and the denial of the owner's claim partly because he was identified as having a criminal record, partly because he was suspected of being involved with a motorcycle gang and partly because he had had previous theft claims with Saskatchewan Government Insurance (settled without problems).

In their handling of the claim, Saskatchewan Government Insurance suggested the claimant take a polygraph test and this he finally did, passing the test and receiving a payout on his theft claim. However, it concerned us that he was identified as having a criminal record as he denied any previous involvement with the police.

Inquiry discovered that this information reached Saskatchewan Government Insurance Claims via the Special Investigation Unit (S.I.U.) but there was no written documentation on the matter. The S.I.U. did not have a file on it and were not investigating this particular claim. However, on someone's request a check was made and the information passed that this individual had a criminal record.

Further inquiry established that there was a criminal record in the same name as this claimant, but the birth dates were different — same year but different month — and the previously convicted person was using the same name as the claimant, but this was an alias.

Needless to say, we did not feel this claim had been handled too well and our concerns were echoed by the Special Investigation Unit, which preferred to handle only formal written requests for information or to investigate particular claims.

In responding to the complaint, the Saskatchewan Government Insurance President, Alex Wilde, denied casual use of the Special Investigation Unit (although this one slipped through the system) and it is accepted that such use was not sanctioned. Mr. Wilde also wrote:

> "Although there were overall concerns about the theft of motorcycles before and at the time of the disappearance of _____'s motorcycle, I agree that he was not well served by the claims system. The suggestion of a criminal record in the absence of one is particularly troublesome. To prevent a recurrence, claims management will restate the policy that anytime S.G.I. uses Special Investigation Unit services, or requests information, we will request it in writing. Where at all possible, a date of birth will accompany the request to help positively identify all individuals."

And this concluded an interesting and, hopefully, unusual case.

SASKATCHEWAN POWER CORPORATION

File No. – 85-27000-10-16

During the course of a temporary office opening in the City of Swift Current, I was approached by a private contractor who had encountered difficulties with the Saskatchewan Power Corporation. This contractor had completed a construction project for the Corporation but felt the Corporation still owed him some money due to extra work he was required to perform in concluding his contract.

Investigation of this matter confirmed that the work had been completed and that this particular contractor had submitted a bill for extra work to the Corporation, in the amount of $6,647. The Corporation was agreeable to paying $3,576, but from this amount was deducting $1,649.85, due to claimed deficiencies with the contractor's work. Thus, of the total account for extra work in the amount of $6,647, only $1,926.15 had been paid to the contractor by the Corporation.

The Corporation was able to provide extensive documentation concerning this construction project. The documentation included photographs which had been taken during the course of the construction, revealing that certain deficiencies did exist. At the same time however, the contract between the Corporation and contractor prescribed a specific process for addressing deficiencies with the work.

At the time the contractor first approached my office, he conceded that there had been some deficiencies. He argued however that had he been given the opportunity to correct these deficiencies, he could have made the corrections at a much lower cost than he was now being charged by S.P.C. From my review of his contract, I was of the opinion that the contractor should have been given some opportunity to correct his deficiencies. As this had not occurred, I was of the view that the Corporation should extend some consideration to the contractor in these circumstances.

Since there were admittedly some deficiencies in the work completed by the contractor, my recommendation to the Corporation was that they pay one-half of the total amount in dispute between themselves and the contractor. In this manner, the contractor would also bear some responsibility for the deficiencies while the Corporation would make some adjustment recognizing that they did not afford the contractor an opportunity to correct these deficiencies.

The Corporation agreed to my recommendation and payment in the amount of $2,360.42 was extended to the contractor, who was satisfied with this resolution. My file was therefore concluded as a substantiated complaint which was rectified by the Saskatchewan Power Corporation.

File No. – 85-27000-10-52

This complainant rented out an acreage with the understanding that his tenants would be responsible for the utilities, which they contracted in their own names. Previous tenants had done so, but on this occasion the tenant hooked up the electricity under the owner's name. When the tenant failed to pay the account, the owner was pressed by Sask-Power to the extent of having the account passed to a collection agency.

This complaint brought a prompt response from Sask-Power stating:

> "The Corporation developed a policy some time ago, whereby electric and natural gas service could be connected or disconnected by a telephone call to a district office rather than applying in person. In this particular situation service was connected under Mr. _____'s name via a telephone request. Saskatchewan Power does not have a record of who originated the request for service, therefore has withdrawn the account from the agent and will write-off the entire amount.
>
> Connect and disconnect requests by telephone have not been a problem to date, and only on occasion when insufficient information is obtained at the time of the telephone call do we experience a situation of this nature."

It was gratifying to have this problem so speedily resolved by the Corporation.

PART III

STATISTICS

PART III

STATISTICS

MUNICIPAL DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1986

Aberdeen	2	Duck Lake	2
Allan	1		
Aneroid	1	Eastend	1
Arborfield	1	Eatonia	2
Archerwill	1	Ebenezer	1
Assiniboia	3	Endeavour	1
		Esterhazy	8
Balgonie	3	Estevan	11
Bankend	1		
Battleford	3	Foam Lake	1
Bethune	1	Fort Qu'Appelle	1
Big River	2	Fox Valley	1
Biggar	4	Frobisher	1
Birch Hills	1	Frontier	1
Blaine Lake	2		
Buchanan	1	Gainsborough	2
Buffalo Narrows	5	Gallivan	1
Bulyea	1	Garrick	1
		Glaslyn	1
Calder	1	Goodsoil	2
Candle Lake	2	Goodwater	1
Cando	1	Gravelbourg	3
Canora	6	Grayson	1
Carrot River	1	Green Lake	8
Ceylon	2	Gronlid	1
Choiceland	2	Gull Lake	1
Christopher Lake	2		
Churchbridge	1	Hague	2
Clavet	1	Halbrite	1
Climax	1	Hanley	1
Codette	1	Harris	1
Consul	2	Hendon	1
Coronach	1	Herbert	2
Craven	1	Hodgeville	1
Creelman	1	Holbein	1
Creighton	2	Hudson Bay	8
Crooked River	2	Humboldt	5
Cumberland House	7		
		Ile-a-la-Crosse	1
Dalmeny	1	Ituna	1
Davidson	1		
Debden	1	Kamsack	5
Delisle	5	Kenaston	1
Deschambault Lake	1	Kennedy	1
Domremy	1	Kerrobert	1
		Kincaid	1

Kindersley	4
Kinistino	1
Kisbey	1
Kyle	2
La Loche	2
La Ronge	6
Lampman	1
Langenburg	2
Langham	5
Lanigan	2
Lashburn	1
Leader	2
Leask	1
Leoville	1
Lintlaw	1
Lloydminster	16
Lone Rock	1
Loon Lake	1
Lumsden	2
Maidstone	2
Manor	2
Maple Creek	2
Margo	2
Markinch	1
Marsden	1
Martensville	5
McKague	2
McLean	1
Meadow Lake	13
Meath Park	3
Melfort	6
Melville	7
Midale	1
Minton	1
Montmartre	1
Moose Jaw	31
Moosomin	3
Morse	1
Naicam	1
Netherhill	1
Nipawin	7
North Battleford	16
Ogema	1
Ormiston	2
Oungre	1
Paradise Hill	1
Peebles	1
Pelican Narrows	1
Pense	1
Perigord	2
Piapot	1
Pilot Butte	2
Porcupine Plain	4
Preeceville	3
Prelate	1
Prince Albert	119
Punnichy	2
Qu'Appelle	1
Radisson	1
Radville	1
Redvers	1
Regina	343
Regina Beach	2
Rocanville	3
Rose Valley	2
Sage Hill	2
Sandy Bay	1
Saskatoon	362
Sheho	1
Shell Lake	3
Shellbrook	2
Shipman	1
Silton	1
Smeaton	2
Smiley	2
Snowden	1
Somme	1
Southey	4
Spiritwood	2
Spruce Home	1
Spruce Lake	1
Star City	1
Stewart Valley	1
Stony Rapids	2
Sturgis	2
Swift Current	13
Tisdale	4
Trossachs	1
Tugaske	1
Turtleford	1
Tuxford	1
Uranium City	4
Vanscoy	2
Vawn	1
Verigin	1
Victoire	1
Viscount	1
Wadena	3
Warman	1

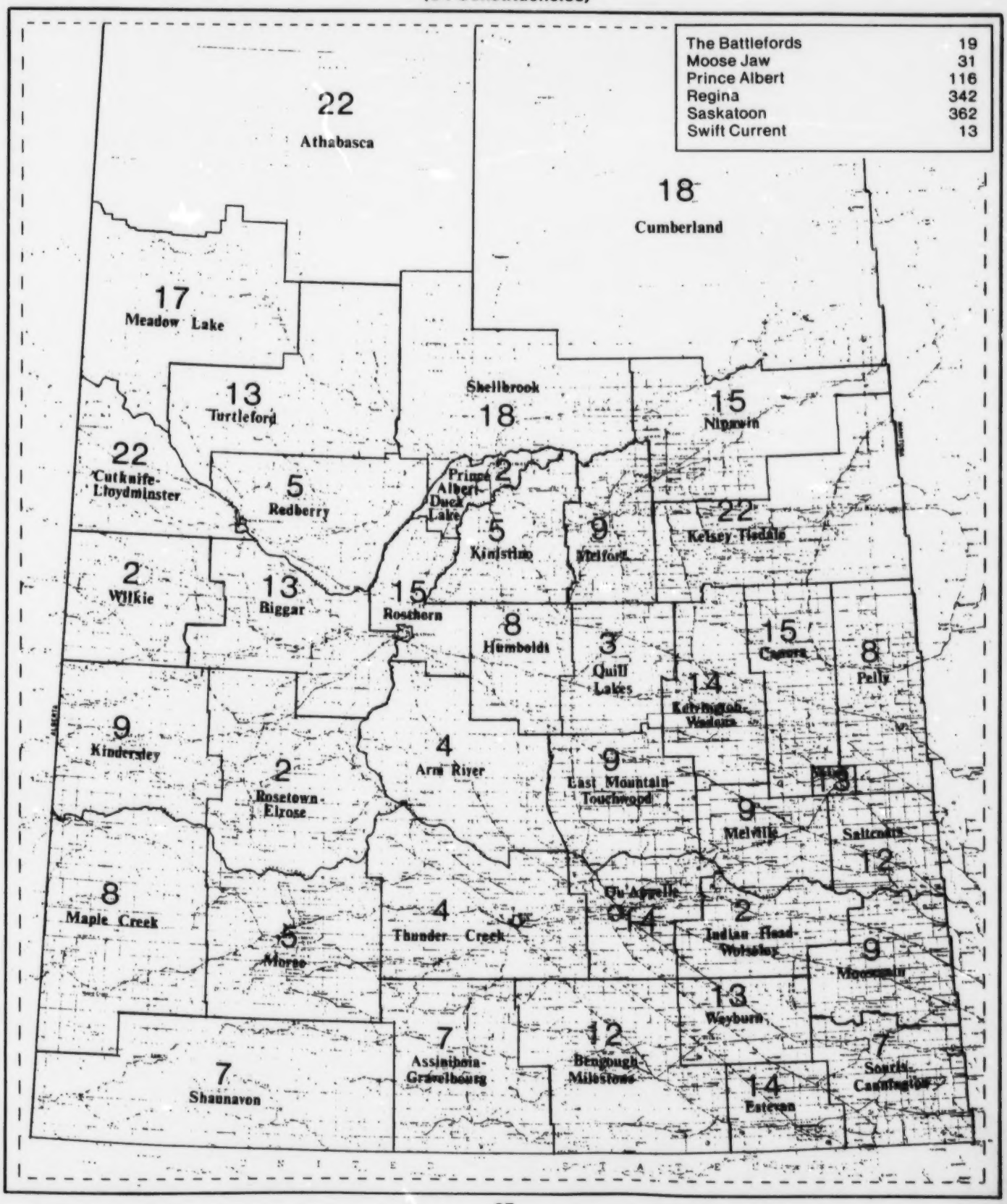
Watrous	2
Wawota	2
Weirdale	1
Weyburn	12
White City	1
White Fox	3
Wilkie	1
Wishart	1
Wroxton	1
Wynyard	1
Yarbo	1
Yellow Grass	2
Yorkton	13
Zenon Park	1

Out of Province

Alberta	12
British Columbia	9
Manitoba	7
Ontario	2

GEOGRAPHIC DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1986

PROVINCIAL CONSTITUENCIES
The Representation Act 1981
(64 Constituencies)



COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1986

Department — Agency Board and Commission	Department Code No.	Resolved	Rectified	Not Substan't	No Juris.	Discont.	Not Rectified	Totals
Agriculture								
— General	1000-10	1	—	6	1	3	1	12
— Lands Branch	1000-30	1	—	1	—	2	1	5
Agricultural Implements Board	1010-00	—	1	—	—	—	—	1
Lands Allocation Appeal Board	1020-00	—	—	—	—	—	1	1
Milk Control Board	1040-00	—	—	3	—	—	—	3
Saskatchewan Crop Insurance Corporation	1050-00	1	—	3	—	3	1	8
Agricultural Credit Corporation of Saskatchewan (FarmStart)	1060-00	—	—	4	—	1	—	5
Saskatchewan Beef Stabilization Board	1090-00	—	—	—	—	1	—	1
Department of Justice								
— General	2000-10	—	—	1	2	4	1	8
— Court Services Branch	2000-20	1	—	—	1	3	—	5
— Corrections Branch	2000-30	15	18	67	1	75	—	176
Administrator of Estates	2010-00	—	—	1	—	—	—	1
Land Titles	2020-00	—	—	—	—	2	—	2
Public Trustee's Office	2030-00	2	—	2	—	7	—	11
Criminal Injuries Compensation Board	2040-00	—	—	—	—	2	—	2
Saskatchewan Legal Aid Commission	2060-00	2	1	1	1	7	—	12
Saskatchewan Police Commission	2070-00	—	—	1	—	—	—	1
Saskatchewan Human Rights Commission	2100-00	—	—	1	—	—	—	1
Consumer and Commercial Affairs								
— General	3000-10	—	—	—	—	4	—	4
— Corporations Branch	3000-20	1	—	1	—	—	—	2
— Licensing and Investigation	3000-40	—	—	1	—	2	—	3

Department – Agency Board and Commission	Department Code No.	Resolved	Rectified	Not Substan't	No Juris.	Discont.	Not Rectified	Totals
Consumer and Commercial Affairs – *(Continued)*								
– Rentalsman	3000-50	–	–	2	–	7	1	10
– Rent Appeal Commission	3000-60	–	1	5	–	5	2	13
– Saskatchewan Securities Commission	3000-70	–	–	–	–	1	–	1
– Provincial Mediation Board	3000-80	–	–	1	–	1	–	2
Advanced Education and Manpower – General	4000-10	2	1	5	–	7	–	15
– Wascana Institute	4000-20	1	–	–	–	–	–	1
– Apprenticeship and Standards	4000-30	–	–	1	–	1	–	2
Community Colleges	4500-10	–	1	1	–	1	–	3
Co-operation and Co-operative Development	5000-10	–	–	–	–	2	–	2
Education – General	7000-10	–	–	1	1	2	–	4
Teacher's Superannuation Commission	7030-00	–	–	1	–	–	–	1
Wascana Centre Authority	7070-00	–	–	–	–	1	–	1
Environment – General	8000-10	1	–	1	–	1	–	3
Watershed Associations	8100-10	–	–	1	–	–	–	1
Saskatchewan Water Corporation	8200-10	2	1	2	2	5	–	12
Water Appeal Board	8300-10	–	–	–	–	1	–	1
Executive Council	9000-10	–	–	–	1	1	–	2
Department of Revenue and Financial Services – General	11000-10	–	–	–	–	3	–	3
– Revenue Division	11000-30	–	–	1	–	–	–	1
– Public Employees Benefits Agency	11000-40	–	–	2	–	2	–	4

Supply and Services	12000-10	1	–	1	–	2	–	4
Saskatchewan Government Printing	12010-00	–	–	1	–	–	–	1
Health								
– General	13000-10	1	1	6	2	4	–	14
– Mental Health Services Branch	13000-20	2	–	2	–	2	–	6
– Saskatchewan Aids to Independent Living	13000-30	–	–	–	–	1	–	1
– Saskatchewan Dental Plan	13000-50	–	1	–	–	–	–	1
– Saskatchewan Prescription Drug Plan	13000-70	–	–	–	–	1	–	1
– Continuing Care Division	13000-80	–	–	–	–	3	–	3
Alcoholism Commission	13010-00	–	–	–	–	2	–	2
Saskatchewan Medical Care Insurance Commission	13020-00	–	1	3	–	1	–	5
South Saskatchewan Hospital Centre	13040-00	–	–	2	–	1	–	3
Highways and Transportation								
– General	14000-10	–	1	5	1	5	–	12
Highway Traffic Board	14010-10	1	–	6	1	13	–	21
Saskatchewan Transportation Company	14030-00	–	–	1	–	–	–	1
S.E.D.C.O.	15020-00	–	–	–	–	1	–	1
Labour								
– General	16000-10	–	–	2	1	4	–	7
– Worker's Advocate	16000-20	–	–	–	–	1	–	1
– Labour Services Division	16000-40	–	5	8	1	9	1	24
– Occupational Health and Safety Division	16000-50	–	1	1	–	–	–	2
– Safety Services Branch	16000-60	–	1	1	1	–	–	3
Labour Relations Board	16010-00	–	–	1	–	–	–	1
Workers' Compensation Board	16030-10	14	8	24	1	137	–	184
Surface Rights Arbitration Board	17020-00	–	–	1	–	–	–	1
Potash Corporation of Saskatchewan	17030-00	–	1	–	–	–	–	1
Saskatchewan Oil and Gas Corporation	17060-00	–	–	–	1	–	–	1
Local Government Board	18030-00	–	–	–	–	1	–	1

Department — Agency Board and Commission	Department Code No.	Resolved	Rectified	Not Substan't	No Juris.	Discont.	Not Rectified	Totals
Saskatchewan Assessment Appeal Board	18060-00	—	—	3	1	2	—	6
Saskatchewan Housing Corporation	18100-00	—	1	3	—	18	—	22
Municipal Housing Authorities	18200-00	—	—	3	—	7	—	10
Urban Affairs	18300-10	1	—	3	—	1	—	5
Northern Saskatchewan								
— General	19000-10	—	—	—	—	1	1	2
— Resource Development Branch	19000-20	—	—	—	—	1	—	1
Parks and Renewable Resources	22000-10	—	3	6	1	9	—	19
Tourism and Small Business	22030-00	1	—	—	—	1	1	3
Social Services								
— General	23000-10	1	1	2	—	9	—	13
— Community and Personal Services	23000-20	—	—	5	2	10	—	17
— Regional Services Division	23000-40	52	15	32	3	222	2	326
— Social Services Branch	23000-50	—	1	—	—	—	—	1
Social Services Appeal Board (Provincial)	23020-00	—	—	6	—	1	—	7
Public Service Commission	24000-10	—	—	1	—	2	—	3
Public Service Superannuation Board	24010-00	—	—	1	—	—	—	1
Sask-Tel								
— General	25000-10	12	1	14	—	17	1	45
Saskatchewan Government Insurance								
— General	26000-10	2	3	7	—	12	—	24
— Motor Licensing Division	26000-20	1	—	7	—	9	—	17
— Claims General	26000-30	23	5	26	1	92	9	156
Saskatchewan Power Corporation	27000-10	17	7	4	1	33	—	62
		159	81	305	28	792	23	1,388

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1986

	Resolved	Rectified	Not Rectified	Not Substantiated	No Jurisdiction	Discontinued	Total
1977	–	–	–	–	–	1	1
1978	–	–	–	–	1	–	1
1980	–	–	–	2	–	7	9
1981	–	–	2	3	–	3	8
1982	–	1	–	3	–	1	5
1983	–	4	5	5	–	2	16
1984	3	11	5	42	–	6	67
1985	5	33	10	137	5	25	215
1986	151	32	1	113	22	747	1,066
	159	81	23	305	28	792	1,388

SUMMARY OF COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1985

	Resolved	Rectified	Not Substantiated	No Jurisdiction	Discontinued	Total
1978	–	–	4	–	–	4
1979	–	–	3	–	1	4
1980	–	1	–	–	1	2
1981	–	3	2	–	–	5
1982	–	4	1	–	2	7
1983	1	12	11	–	3	27
1984	12	49	175	4	22	262
1985	199	33	159	55	798	1,244
	212	102	355	59	827	1,555

TOTAL COMPLAINTS RECEIVED – 1986

	Against Saskatchewan Departments and Agencies	Not Against Saskatchewan Departments and Agencies	Total
January	101	155	256
February	97	138	235
March	116	177	293
April	115	207	322
May	126	171	297
June	134	171	305
July	129	197	326
August	96	120	216
September	84	139	223
October	78	146	224
November	113	153	266
December	136	146	282
	1,325	1,920	3,245

COMPLAINTS OTHER THAN AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES
January 1 to December 31, 1986

Category	Number	%
Consumer	693	36.1
Federal	369	19.2
Local Government	152	8.
Professional	48	2.5
Private	284	14.8
Courts/Legal	141	7.3
Family	42	2.2
Other	185	9.6
Medical	6	.3
	1,920	100%

COMPLAINTS RECEIVED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES – 1986

Department – Agency Board and Commission	Department Code No.	Totals
Agriculture		
– General	1000-10	11
– Lands Branch	1000-30	3
Agricultural Implements Board	1010-00	–
Lands Allocation Appeal Board	1020-00	–
Milk Control Board	1040-00	–
Saskatchewan Crop Insurance Board	1050-00	14
Agricultural Credit Corporation of Saskatchewan	1060-00	1
Saskatchewan Beef Stabilization Board	1090-00	1
Saskatchewan Farm Purchase Program	1200-00	1
Department of Justice		
– General	2000-10	8
– Court Services Branch	2000-20	5
– Corrections Branch	2000-30	184
Maintenance Enforcement Office	2000-40	1
Administrator of Estates	2010-00	–
Land Titles	2020-00	2
Official Guardian	2030-00	10
Criminal Injuries Compensation Board	2040-00	3
Saskatchewan Legal Aid Commission	2060-00	12
Saskatchewan Police Commission	2070-00	–
Saskatchewan Human Rights Commission	2100-00	1
Consumer and Commercial Affairs		
– General	3000-10	5
– Corporations Branch	3000-20	2
– Insurance and Real Estate Branch	3000-30	–
– Licensing and Investigation	3000-40	2
– Rentalsman	3000-50	8
– Rent Appeal Commission	3000-60	8
– Saskatchewan Securities Commission	3000-70	1
– Provincial Mediation Board	3000-80	–
Advanced Education and Manpower		
– General	4000-10	17
– Wascana Institute	4000-20	1
– Apprenticeship and Standards	4000-30	2
Employment Development Agency	4100-10	2
Community Colleges	4500-10	2
Co-operation and Co-operative Development	5000-10	3
Culture and Recreation	6000-10	–
Saskatchewan Arts Board	6010-00	–
Education		
– General	7000-10	2
Teacher's Superannuation Commission	7030-00	3
Saskatchewan Centre of the Arts	7060-00	–
Wascana Centre Authority	7070-00	1

Department – Agency Board and Commission	Department Code No.	Totals
Environment		
– General	8000-10	2
Saskatchewan Water Supply Board	8010-00	–
Watershed Associations	8100-10	–
Saskatchewan Water Corporation	8200-10	7
Water Appeal Board	8300-10	1
Executive Council	9000-10	3
Department of Finance	10000-10	–
Department of Revenue and Financial Services		
– General	11000-10	6
– Revenue Division	11000-30	1
Public Employees Benefits Agency	11000-40	3
Supply and Services		
– General	12000-10	4
Health		
– General	13000-10	11
– Mental Health Services Branch	13000-20	5
– Saskatchewan Aids to Independent Living	13000-30	1
– Saskatchewan Hearing Aid Plan	13000-40	1
– Saskatchewan Dental Plan	13000-50	2
– Saskatchewan Hospital Services Plan	13000-60	–
– Saskatchewan Prescription Drug Plan	13000-70	2
– Continuing Care Division	13000-80	2
Alcoholism Commission	13010-00	2
Saskatchewan Medical Care Insurance Commission	13020-00	1
Saskatchewan Cancer Foundation	13030-00	1
South Saskatchewan Hospital Centre	13040-00	5
Highways and Transportation	14000-10	14
Highway Traffic Board	14010-00	19
Saskatchewan Transportation Company	14030-00	–
Economic Development and Trade		
– General	15000-10	–
S.E.D.C.O.	15020-00	2
Labour		
– General	16000-10	7
– Workers' Advocate	16000-20	1
– Labour Services Division	16000-40	20
– Safety Services Branch	16000-60	–
Labour Relations Board	16010-00	–
Workers' Compensation Board	16030-10	183
Liquor Board	16040-00	2
Liquor Licensing Commission	16050-00	–
Surface Rights Arbitration Board	17020-00	2
Potash Corporation of Saskatchewan	17030-00	1
Saskatchewan Minerals	17040-00	–
Saskatchewan Gas and Oil Corporation	17060-00	1
Rural Development		
– General	18000-10	–

Department – Agency Board and Commission	Department Code No.	Totals
Local Government Board	18030-00	1
Provincial Planning Appeal Board	18040-00	1
Public and Private Rights Board	18050-00	–
Saskatchewan Assessment Appeal Board	18060-00	6
Saskatchewan Housing Corporation	18100-00	30
Municipal Housing Authorities	18200-00	11
Urban Affairs		
– General	18300-10	4
– Property Improvement Grant	18300-20	–
Saskatchewan Municipal Boundary Commission	18300-30	1
Provincial Library	20000-10	–
Saskatchewan Research Council	21010-00	–
Parks and Renewable Resources	22000-10	23
Saskatchewan Forest Products Corporation	22010-00	–
Department of Tourism and Small Business	22030-00	2
Social Services		
– General	23000-10	12
– Community and Personal Services	23000-20	13
– Regional Services Division	23000-40	313
Core Services	23010-00	–
Social Services Appeal Board (Provincial)	23020-00	9
Public Service Commission		
– General	24000-10	4
Public Service Superannuation Board	24010-00	–
Public Employees Benefits Agency	24020-00	–
Sask-Tel		
– General	25000-10	35
Saskatchewan Government Insurance		
– General	26000-10	29
– Motor Licensing Division	26000-20	12
– Claims General	26000-30	129
Saskatchewan Power Corporation	27000-10	61
Public Utilities Review Commission	28000-10	1
		1,325

R.S.S. 1978

CHAPTER O-4.

An Act to provide for the appointment of a Person to Investigate Administrative decisions or acts of Departments of the Government and certain other Organizations and to define the Person's duties, functions and powers.

Short title

1. This Act may be cited as *The Ombudsman Act.*

Interpretation

2. In this Act:

"agency of the government"

(*a*) "agency of the government" means any board, commission, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which:

(*i*) are appointed by an Act or by an order of the Lieutenant Governor in Council; or

(*ii*) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

"department"

(*b*) "department" means a department or branch of the executive government of the province;

"minister"

(*c*) "minister" means a member of the Executive Council. 1972, c. 87, s. 2.

Appointment

3.—(1) There shall be appointed, as an officer of the Legislature, a commissioner for investigation to be called an Ombudsman.

(2) The person appointed as Ombudsman shall be a Canadian citizen and, subject to section 5, he shall be appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly.

(3) Unless he sooner resigns, dies or is removed from office, the Ombudsman shall hold office for a term of five years from the date of his appointment and may be reappointed for one additional term of five years.

(4) The Ombudsman may at any time resign his office by writing addressed to the Speaker of the Assembly or to the President of the Executive Council if there is no Speaker or if the Speaker is absent from the province. 1972, c. 87, s. 3.

Removal or suspension

4. The Lieutenant Governor in Council on a resolution of the Assembly shall remove the Ombudsman from his office or suspend him according to the resolution. 1972, c. 87, s. 4.

Suspension when Legislature not in session

5.—(1) When the Legislature is not in session the Lieutenant Governor in Council may suspend the Ombudsman for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue beyond the end of the next ensuing session of the Legislature.

(2) Where the office of Ombudsman is vacant or the Ombudsman is suspended under subsection (1), the Lieutenant Governor in Council shall appoint an acting Ombudsman to hold office until a person is appointed as Ombudsman under section 3 or the suspension has been dealt with by the Assembly. 1972, c. 87, s. 5.

Salary

6.—(1) The Ombudsman shall be paid:

(*a*) a salary equal to the salary fixed from time to time by the Lieutenant Governor in Council pursuant to subsection 5(1) of *The Provincial Court Act* to be paid to a judge of the Provincial Court of Saskatchewan; and

(*b*) an allowance for travelling and other expenses incurred by him in the performance of his duties that may be approved by the Lieutenant Governor in Council.

(2) Sums required for the purposes of this Act may be paid out of moneys appropriated by the Legislature for the purpose. 1972, c. 87, s. 6; 1973-74, c. 74, s. 1; 1974-75, c. 32, ss. 2, 3; 1976, c. 41, s. 1; 1976-77, c. 54, s. 1; 1978, c. 40, s. 1; 1979, c. 49, s. 2.

Application of certain Acts to Ombudsman and staff

7.—(1) The Ombudsman is not subject to *The Public Service Act*, except section 54 thereof, and he is subject to *The Public Service Superannuation Act*.

(2) The staff for the Ombudsman shall consist of such persons or positions as are required for the proper administration of this Act.

(3) *The Public Service Act* and *The Public Service Superannuation Act* apply to the members of the staff of the Ombudsman. 1972, c. 87, s. 7.

Oath of office

8. The Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Speaker of the Assembly or the Clerk of the Legislative Assembly the following oath:

OATH OF OFFICE.

"I, , do swear that I will faithfully and impartially perform and discharge the duties and functions of Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 8.

Same

9. Every member of the staff of the Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Ombudsman the following oath:

OATH OF OFFICE.

"I, , do swear that I will faithfully and impartially perform and discharge the duties and functions of my office as an employee of the Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 9.

Secrecy

10.—(1) The Ombudsman and every member of his staff shall maintain secrecy in respect of all matters that come to his knowledge in the exercise of his powers and the carrying out of his duties and functions under this Act.

(2) Notwithstanding subsection (1) or any oath taken under this Act, the Ombudsman may disclose in a report made by him under this Act any matter that he considers necessary to disclose in order to establish grounds for his conclusions and recommendations. 1972, c. 87, s. 10.

Delegation of powers

11.—(1) With the prior approval of the Lieutenant Governor in Council the Ombudsman may, by writing under his hand, delegate to any member of his staff any of his powers under this Act except the power of delegation under this section and the power to make a report under this Act.

(2) A delegation may be made to a specified person of the staff of the Ombudsman or to the holder for the time being of a specified office or to the holders of offices of a specified class of the staff.

(3) Every delegation is revocable at will and no delegation prevents the exercise of any power by the Ombudsman.

(4) A delegation may be made subject to such restrictions and conditions as the Ombudsman thinks fit and may be made either generally or in relation to a particular case or class of cases.

(5) Until a delegation is revoked, it continues in force according to its tenor and where the Ombudsman who made the delegation ceases to hold office the delegation shall continue to have effect as if it was made by his successor.

(6) Where the Ombudsman has delegated a power under this section, the person to whom the power is delegated shall, when required to do so, produce evidence of his authority to exercise the power. 1972, c. 87, s. 11.

Powers, functions and duties

12.—(1) It is the duty of the Ombudsman and he has power to investigate any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by a department or agency of the government or by any officer, employee or member thereof in the exercise of any power, duty or function conferred or imposed on him by any Act whereby any person is or may be aggrieved.

(2) The Ombudsman may make an investigation of a matter either on a written complaint made to him by any person or of his own motion and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission mentioned in subsection (1).

(3) A committee of the Assembly may at any time refer to the Ombudsman for investigation and report any petition or matter that is before the committee for consideration and the Ombudsman shall:

(*a*) subject to any special directions of the committee, investigate the petition or matter referred to him so far as it is within his jurisdiction; and

(*b*) make such report to the committee as he thinks fit.

(4) The Lieutenant Governor in Council may at any time refer to the Ombudsman for investigation and report any matter relating to the administration in or by any department or agency of the government or by any officer, employee or member thereof and the Ombudsman shall:

(*a*) subject to any special directions of the Lieutenant Governor in Council, investigate the matter referred to him so far as it is within his jurisdiction; and

(*b*) make such report to the Lieutenant Governor in Council as he thinks fit. 1972, c. 87, s. 12.

Complaints to Ombudsman

13.—(1) Every complaint to the Ombudsman shall be made by a person who is, or who before the date of the event that gave rise to the complaint was, a resident of Saskatchewan.

(2) A complaint under this Act may be made in respect of any matter that arises after this Act comes into force or that arose within the twelve months immediately preceding the coming into force of this Act.

(3) No complaint shall be investigated by the Ombudsman unless the complaint was made within twelve months after the event that gave rise to the complaint occurred.

(4) Notwithstanding subsection (3), if the Ombudsman for special reasons to be certified by him concludes that a complaint should be investigated, he may investigate the complaint regardless of when the event that gave rise to the complaint ocurred. 1972, c. 87, s. 13.

Ombudsman not restricted by provisions of other Acts

14. The Ombudsman may exercise his powers and shall carry out his duties and functions under this Act notwithstanding anything in any other Act which provides:

(*a*) that any decision, recommendation, act or omission that he is investigating is final or that no appeal lies in respect thereof; or

(*b*) that no proceeding or decision of the department, agency of the government, officer, employee or person whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called into question. 1972, c. 87, s. 14.

Restrictions on jurisdiction

15.—(1) Nothing in this Act authorizes the Ombudsman to investigate:

(*a*) any decision, recommendation, act, order or omission of the Assembly, a committee of the Assembly, the Lieutenant Governor in Council, the Executive Council or a member or committee of the Executive Council;

(*b*) any decision, order or omission of a court, a judge of a court, a referee or local master of a court, a magistrate or a

justice of the peace made or given in any action or proceeding in the court or before the judge, referee, local master, magistrate or justice of the peace;

(*c*) any award, decision, recommendation or omission of an arbitrator, or board of arbitrators, established by or under any Act;

(*d*) any decision, recommendation, act or omission in respect of which there is under an Act a right of appeal or objection or a right to apply for a review of the merits of the case to any court or tribunal constituted by or under an Act, whether or not that right of appeal, objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired, unless the Ombudsman is satisfied that in the particular case it would have been unreasonable to expect the complainant to resort to the court or tribunal, but in that case the investigation shall not commence until after the time for the exercise of that right to appeal, object or apply has expired;

(*e*) any decision, recommendation, act or omission of any person acting as solicitor or counsel for the Crown in relation to any proceedings;

(*f*) any decision, recommendation, act or omission of a deputy minister, an acting deputy minister, associate deputy minister or assistant deputy minister when acting as such or of any person who by virtue of his appointment or actual employment is expressly or by necessary implication directly responsible to a minister;

(*g*) any decision, recommendation, act, order or omission of any department or agency of the government, or an officer, employee or person, in relation to any matter arising between the department, agency, officer, employee or person, and the government of another province or the Government of Canada or a municipality or school board.

(2) Where a dispute arises as to whether a person mentioned in clause (*f*) of subsection (1) is a person who by virtue of his appointment or actual employment is expressly or by necessary implication responsible to a minister, the dispute shall be referred to and be determined by the Attorney General and the decision of the Attorney General is final. 1972, c. 87, s. 15.

Question of jurisdiction to investigate

16.—(1) Where any question arises respecting the jurisdiction of the Ombudsman to investigate any case or class of cases under this Act, he may apply to the Court of Queen's Bench or a judge of the

court sitting in chambers for a declaratory order determining the question.

(2) Notice of an application under subsection (1) shall be served upon the Attorney General not less than fifteen days before the date on which the application is to be heard. 1972, c. 87, s. 16.

Certain correspondence with Ombudsman privileged

17. Notwithstanding any Act, where a letter written by a person in custody on a charge for an offence or after conviction for an offence, or by an inmate of a hospital, mental hospital, facility or institution operated by or under the direction of the government, or by any person in custody of another person for any reason, is addressed to the Ombudsman, it shall be forwarded, unopened, to the Ombudsman by the person for the time being in charge of the place where the writer of the letter is detained or in which he is an inmate or by the person having custody of the writer. 1972, c. 87, s. 17.

Refusal to investigate

18.—(1) The Ombudsman may, in his discretion, refuse to investigate or cease to investigate a complaint if:

(*a*) it relates to a decision, recommendation, act or omission of which the complainant had knowledge for more than a year before the complaint is received by the Ombudsman;

(*b*) in his opinion it is frivolous, vexatious, not made in good faith or concerns a trivial matter;

(*c*) in his opinion upon a balance between the public interest and the person aggrieved, it should not be investigated or the investigation should not be continued;

(*d*) in his opinion the circumstances of the case do not warrant investigation;

(*e*) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or

(*f*) during the course of an investigation it appears to him:

(*i*) that under the law or existing administrative practices the complainant has adequate remedy or right of appeal, other than a petition to the Legislature, whether or not the complainant has availed himself of it; or

(*ii*) that, having regard to all the circumstances of the case, further investigation is unnecessary.

(2) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 18.

Notice of cessation etc. of investigation

19. Where the Ombudsman decides not to investigate, or to cease to investigate, a complaint, he shall inform the complainant of his decision and may, if he thinks fit, state his reasons therefor. 1972, c. 87, s. 19.

Notice of investigation

20.—(1) Before investigating any matter under this Act the Ombudsman shall notify the deputy minister of the department or the administrative or executive head of the agency of the government affected, as the case may be, of his intention to make the investigation.

(2) The notice shall be in writing and shall set forth the nature of the complaint, if any, received by the Ombudsman.

(3) The Ombudsman may in his discretion at any time during or after an investigation consult with the minister who is concerned in the matter of the investigation.

(4) On the request of the minister in charge of the department or agency of the government or in any case where an investigation relates to any recommendation made to a minister, the Ombudsman shall consult the minister after making the investigation and before forming a final opinion of any matter referred to in subsections (1) and (2) of section 24.

(5) Where, during or after an investigation, the Ombudsman is of the opinion that there is evidence of breach of duty or misconduct on the part of any officer or employee of any department or agency of the government, he shall refer the matter to the minister in charge of the department or agency of the government, as the case may require. 1972, c. 87, s. 20.

Conduct of investigation

21.—(1) Every investigation by the Ombudsman under this Act shall be conducted in private.

(2) The Ombudsman may hold hearings and hear or obtain information from any person he thinks fit and may make such inquiries as he thinks necessary.

(3) The Ombudsman is not required to hold a hearing and no person is entitled as of right to be heard by the Ombudsman but if at any time it appears to the Ombudsman that there are sufficient grounds for his making a report or recommendation in respect of any matter that may adversely affect any department, agency of the government or person, he shall give to that department, agency or person an opportunity to make representations in respect of the matter and the department, agency or person may make representations in respect of the matter by counsel. 1972, c. 87, s. 21.

Ombudsman may require information and examine persons

22.—(1) Subject to section 23, the Ombudsman may require any person, other than a minister or a person mentioned in clause *(f)* of subsection (1) of section 15, who in his opinion is able to give any information relating to any matter being investigated by him:

(*a*) to furnish information to him; and

(*b*) to produce any document or thing that, in his opinion, relates to the matter being investigated and that may be in the possession or under the control of that person;

whether or not that person is an officer, employee or member of the department or agency of the government and whether or not the document, paper or thing is in the custody or under the control of a department or agency of the government.

(2) The Ombudsman may summon before him and examine under oath:

(*a*) any person, other than a minister or a person mentioned in clause *(f)* of section 15, who is an officer, employee or member of any department or agency of the government and who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

(*b*) any complainant; and

(*c*) any other person who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

and for that purpose may administer an oath.

(3) Every examination by the Ombudsman under subsection (2) shall be deemed a judicial proceeding for the purposes of section 120 of the *Criminal Code*.

(4) Subject to section 23:

(*a*) a rule of law that authorizes or requires the withholding of any document, paper or thing or the refusal to answer any question on the ground that the disclosure or answer would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman;

(*b*) no provision of an Act requiring a person to maintain secrecy in relation to, or not to disclose information relating to, any matter shall apply in respect of an investigation by the Ombudsman and no person who is required by the Ombudsman to furnish any information or to produce any document, paper or thing or who is summoned by the

Ombudsman to give evidence, shall refuse to furnish the information, produce the document, paper or thing or to answer questions on the ground of such a provision.

(5) Except on the trial of a person for perjury, no statement made by the person or any other person in the course of an investigation by, or any proceedings before, the Ombudsman is admissible in evidence against any person in any court, at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

(6) No person shall be prosecuted for an offence against any Act by reason of his compliance with any requirement of the Ombudsman under this section. 1972, c. 87, s. 22.

Disclosure restricted

23. Where the Attorney General certifies to the Ombudsman that the giving of any information, the answering of any question or the production of any document, paper or writing might involve the disclosure of:

(*a*) the deliberations of the Executive Council; or

(*b*) proceedings of the Executive Council or a committee of the Executive Council relating to matters of a secret or confidential nature the disclosure of which would be injurious to the public interest;

the Ombudsman shall not require the information or answer to be given or the document, paper or writing to be produced, as the case may be, but shall report the receipt of the certificate in his next annual report. 1972, c. 87, s. 23.

Report on investigation

24.—(1) Where, after making an investigation under this Act, the Ombudsman is of the opinion:

(*a*) that a decision, recommendation, act or omission that is the subject matter of the investigation appears to have been:

(*i*) contrary to law;

(*ii*) unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law, a provision of an Act, or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;

(*iii*) based in whole or in part on a mistake of law or fact; or

(*iv*) wrong;

(*b*) that in making a decision or recommendation, or in doing or omitting an act, a power or right has been exercised:

(*i*) for an improper purpose;

(*ii*) on irrelevant grounds; or

(*iii*) on the taking into account of irrelevant considerations; or

(*c*) that reasons should have been given for a decision, recommendation, act or omission that was the subject matter of the investigation;

the Ombudsman shall report his opinion and his reasons therefor to the appropriate minister and to the department or agency of the government concerned and may make such recommendations as he thinks fit.

(2) Without limiting the generality of subsection (1), in making a report under that subsection the Ombudsman may recommend:

(*a*) that a matter should be referred to the appropriate authority for further consideration;

(*b*) that an omission should be rectified;

(*c*) that a decision should be cancelled or varied;

(*d*) that any practice on which a decision, recommendation, act or omission was based should be altered or reviewed;

(*e*) that any law on which a decision, recommendation, act or omission was based should be reconsidered;

(*f*) that reasons should be given for any decision, recommendation, act or omission; or

(*g*) that any other steps should be taken.

(3) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 24.

Notice of proposed steps

25.—(1) Where the Ombudsman makes a recommendation under section 24, he may request the department or agency of the government to notify him within a specified time of the steps that it has taken or proposed to take to give effect to his recommendations.

(2) If, within a reasonable time after a request respecting recommendations is made under this section, no action is taken that seems to the Ombudsman to be adequate or appropriate the Ombudsman after considering the comments, if any, made by or on behalf of the department or agency of the government affected may submit a report of the matter, including a copy of the report containing the recommendation, to the Lieutenant Governor in Council and may thereafter mention the report in his next annual report to the Assembly. 1972, c. 87, s. 25.

Review of Ombudsman's decision

26.—(1) Where the Ombudsman makes a recommendation under section 24 and no action that seems to the Ombudsman to be adequate and appropriate is taken thereon within a reasonable time, the Ombudsman shall inform the complainant of his recommendation and make such comments on the matter as he thinks fit.

(2) The Ombudsman shall in any event inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation. 1972, c. 87, s. 26.

Proceedings not subject to review

27. No proceeding of the Ombudsman is invalid for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman shall be challenged, reviewed, quashed or called into question in any court. 1972, c. 87, s. 27.

Proceedings against Ombudsman prohibited

28.—(1) No proceedings lie against the Ombudsman or against any member of his staff for anything he may do, report or say in the course of the exercise or performance, or intended exercise or performance, of his powers, duties and functions under this Act unless it is shown that he acted in bad faith.

(2) Neither the Ombudsman nor any member of his staff shall be called in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise or performance of his powers, duties and functions under this Act.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the court relating to an investigation by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the investigation or proceedings were proceedings in a court.

(4) For the purposes of *The Libel and Slander Act*, any report made by the Ombudsman under this Act shall be deemed to be privileged and a fair and accurate report thereon in a newspaper or a braodcast shall be deemed to be privileged. 1972, c. 87, s. 28; 1976-77, c. 81, s. 5.

Entry of premises

29.—(1) For the purposes of this Act, the Ombudsman may at any time enter upon the premises occupied by any department or agency of the government and, subject to section 12, carry out therein any investigation within his jurisdiction.

(2) Before entering upon any premises under subsection (1), the Ombudsman shall notify the deputy minister or administrative head of the department or agency of the government that occupies the premises of his intention to conduct an investigation. 1972, c. 87, s. 29.

Report by Ombudsman

30.—(1) The Ombudsman shall make and submit to the Speaker of the Assembly an annual report respecting the exercise of his powers and the performance of his duties and functions under this Act, which shall be laid before the Assembly within fifteen days from the commencement of the session next following the end of the year for which the report is made.

(2) The Ombudsman may from time to time in the public interest or in the interest of any person, department or agency of the government publish reports relating:

(*a*) generally to the exercise of his powers and the performance of his duties and functions under this Act; or

(*b*) to any particular case investigated by him;

whether or not the matters to be dealt with in any such report have been the subject of a report to the Assembly. 1972, c. 87, s. 30.

Rules for guidance

31.—(1) The Assembly may:

(*a*) of its own volition; or

(*b*) upon the recommendation of the Lieutenant Governor in Council;

make rules for the guidance of the Ombudsman in the exercise of his powers and performance of his duties and functions.

(2) Subject to this Act and any rules made under subsection (1), the Ombudsman may determine his procedure and the procedure for the members of his staff in the exercise of the powers conferred and the performance of the duties and functions imposed by this Act. 1972, c. 87, s. 31.

Offences and penalties

32. Any person who:

(*a*) without lawful justification or excuse wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;

(*b*) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or

(*c*) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;

is guilty of an offence and liable on summary conviction to a fine not exceeding $500 or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1972, c. 87, s. 32.

Attorney General may intervene

33. The Attorney General or counsel appointed by him for the purpose may at any time, without leave of the court or judge, intervene in any action or proceedings taken in any court under section 27 or 28 and no order for costs for or against the Attorney General shall be made as a result of the intervention. 1972, c. 87, s. 33.

Act to provide additional remedies

34. The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy, right of appeal or objection is provided for any person, or any procedure is provided for inquiry into or investigation of any matter and nothing in this Act limits or affects any such remedy, right of appeal, objection or procedure. 1972, c. 87, s. 34.